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6 Attorneys for Defendants  
CAPITAL BENEFIT, INC., MARCEL BRUETSCH,  
7 ROBERT V. WILLIAMS, TRUSTEE OF THE  
WILLIAMS FAMILY TRUST DATED SEPTEMBER 17, 1999,  
8 WALTRAUD M. WILLIAMS, TRUSTEE OF THE WILLIAMS  
FAMILY TRUST DATED SEPTEMBER 17, 1999  
9 and RICHARD WESTIN

10  
11 **UNITED STATES DISTRICT COURT**  
12 **NORTHERN DISTRICT OF CALIFORNIA**

13 REGINALD and RHONDA  
14 DRAKEFORD, husband and wife,

15 Plaintiffs,

16 vs.

17 CAPITAL BENEFIT, INC., a California  
company; MARCEL BRUETSCH, an  
individual; ROBERT V. and  
18 WALTRAUD M. WILLIAMS,  
individually and as Trustees of the  
19 Williams Family Trust; RICHARD  
WESTIN, an individual, DOES 1 to 10,  
20 inclusive,

21 Defendants.  
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CASE NO. 3:20-cv-04161-WHO\_\_

**DEFENDANTS' PROPOSED  
VERDICT FORM**

Trial Date: April 26, 2021  
Time: 8:30 a.m.  
Courtroom: 2

Honorable Judge William H. Orrick

1           We the Jury in the above-entitled action find the following special verdict  
2 on the following questions presented to us.

3           For each claim, please answer the following questions.

4   **I. TRUTH IN LENDING**

5           As to Reginald and Rhonda Drakeford's claim under the Truth-In-  
6 Lending Act:

7           Was a business purpose loan applied for \_\_\_\_yes \_\_\_\_no

8           Was a consumer purpose loan applied for \_\_\_\_yes \_\_\_\_no

9           If you answered that the loan was for a business purpose, please go to the  
10 next claim for relief.

11           If you answered that the loan was for a consumer purpose, please answer  
12 the following questions:

13           Is this claim barred due to unclean hands \_\_\_\_yes \_\_\_\_no

14           Is this claim barred due to estoppel \_\_\_\_yes \_\_\_\_no

15           Is this claim barred due to the Drakefords' stated use of the loan proceeds  
16 \_\_\_\_yes \_\_\_\_no

17           Is this claim barred due to the Drakefords' deliberate steps to mislead  
18 \_\_\_\_yes \_\_\_\_no

19           Is this claim barred due to it being an unintentional violation \_\_\_\_yes  
20 \_\_\_\_no

21           Is this claim barred due to it being an unintentional violation based upon  
22 the reliance placed upon the Drakefords \_\_\_\_yes \_\_\_\_no

23           If you answered any of the above questions yes, please go to the next claim  
24 for relief.

25           If you answered all of the above questions no, please answer the following  
26 questions.

27           We award the Drakefords the following damages: \$ \_\_\_\_\_.  
28

**II. BREACH OF CONTRACT**

**As to Reginald and Rhonda Drakeford's claim for Breach of Contract:**

**Was a business purpose loan applied for \_\_\_\_yes \_\_\_\_no**

**Was a consumer purpose loan applied for \_\_\_\_yes \_\_\_\_no**

**If you answered that the loan was for a business purpose, please go to the next claim for relief.**

**If you answered that the loan was for a consumer purpose, please answer the following questions:**

**Is this claim barred due to unclean hands \_\_\_\_yes \_\_\_\_no**

**Is this claim barred due to estoppel \_\_\_\_yes \_\_\_\_no**

**Is this claim barred due to the Drakefords' stated use of the loan proceeds \_\_\_\_yes \_\_\_\_no**

**Is this claim barred due to the Drakefords' deliberate steps to mislead \_\_\_\_yes \_\_\_\_no**

**Is this claim barred due to it being an unintentional violation \_\_\_\_yes \_\_\_\_no**

**Is this claim barred due to it being an unintentional violation based upon the reliance placed upon the Drakefords \_\_\_\_yes \_\_\_\_no**

**If you answered any of the above questions yes, please go to the next claim for relief.**

**If you answered all of the above questions no, please answer the following question.**

**Did the Lenders breach a contract with the Drakefords \_\_\_\_yes \_\_\_\_no**

**If you answered the above question yes, please answer the following question:**

**If the Lenders breached a contract with the Drakefords, how was it breached:\_\_\_\_\_**

**If you could not answer the above question, please go to the next claim for**

1 relief.

2 If you did answer the above question, please answer the following  
3 question:

4 We award the Drakefords the following damages: \$\_\_\_\_\_.

5 **III. REAL ESTATE SETTLEMENT PROCEDURES ACT**

6 As to Reginald and Rhonda Drakeford's claim for Real Estate Settlement  
7 Procedures Act:

8 Was a business purpose loan applied for \_\_\_\_yes \_\_\_\_no

9 Was a consumer purpose loan applied for \_\_\_\_yes \_\_\_\_no

10 If you answered that the loan was for a business purpose, please go to the  
11 next claim for relief.

12 If you answered that the loan was for a consumer purpose, please answer  
13 the following questions:

14 Is this claim barred due to unclean hands \_\_\_\_yes \_\_\_\_no

15 Is this claim barred due to estoppel \_\_\_\_yes \_\_\_\_no

16 Is this claim barred due to the Drakefords' stated use of the loan proceeds  
17 \_\_\_\_yes \_\_\_\_no

18 Is this claim barred due to the Drakefords' deliberate steps to mislead  
19 \_\_\_\_yes \_\_\_\_no

20 Is this claim barred due to it being an unintentional violation \_\_\_\_yes  
21 \_\_\_\_no

22 Is this claim barred due to it being an unintentional violation based upon  
23 the reliance placed upon the Drakefords \_\_\_\_yes \_\_\_\_no

24 If you answered any of the above questions yes, please go to the next claim  
25 for relief.

26 If you answered all of the above questions no, please answer the following  
27 question.

28 We award the Drakefords the following damages: \$\_\_\_\_\_.

**IV. ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT**

**As to Reginald and Rhonda Drakeford's claim for Rosenthal Fair Debt Collection Practices Act:**

**Was a business purpose loan applied for \_\_\_\_yes \_\_\_\_no**

**Was a consumer purpose loan applied for \_\_\_\_yes \_\_\_\_no**

**If you answered that the loan was for a business purpose, please go to the next claim for relief.**

**If you answered that the loan was for a consumer purpose, please answer the following questions:**

**Is this claim barred due to unclean hands \_\_\_\_yes \_\_\_\_no**

**Is this claim barred due to estoppel \_\_\_\_yes \_\_\_\_no**

**Is this claim barred due to the Drakefords' stated use of the loan proceeds \_\_\_\_yes \_\_\_\_no**

**Is this claim barred due to the Drakefords' deliberate steps to mislead \_\_\_\_yes \_\_\_\_no**

**Is this claim barred due to it being an unintentional violation \_\_\_\_yes \_\_\_\_no**

**Is this claim barred due to it being an unintentional violation based upon the reliance placed upon the Drakefords \_\_\_\_yes \_\_\_\_no**

**If you answered any of the above questions yes, please go to the next claim for relief.**

**If you answered all of the above questions no, please answer the following question.**

**Did the Lenders violate the Rosenthal Fair Debt Collection Practices Act \_\_\_\_yes \_\_\_\_no**

**If you answered the above question yes, please answer the following question: If the Lenders violated the Rosenthal Fair Debt Collection Practices Act, how was it violated:\_\_\_\_\_.**

1 If you could not answer the above question, please go to the next claim for  
2 relief.

3 If you did answer the above question, please answer the following  
4 question:

5 We award the Drakefords the following damages: \$\_\_\_\_\_.

6 **V. BREACH OF FIDUCIARY**

7 As to Reginald and Rhonda Drakeford's claim for Breach of Fiduciary  
8 Duty:

9 Did Marcel Bruetsch represent the Drakefords \_\_\_\_yes \_\_\_\_no

10 Did Capital Benefit, Inc., represent the Drakefords \_\_\_\_yes \_\_\_\_no

11 If you answered no to both questions, please go to the next claim for relief.

12 If you answered either of the questions with a yes, please answer the  
13 following questions:

14 Is this claim barred due to unclean hands \_\_\_\_yes \_\_\_\_no

15 Is this claim barred due to estoppel \_\_\_\_yes \_\_\_\_no

16 Is this claim barred due to the Drakefords' stated use of the loan proceeds  
17 \_\_\_\_yes \_\_\_\_no

18 Is this claim barred due to the Drakefords' deliberate steps to mislead  
19 \_\_\_\_yes \_\_\_\_no

20 Is this claim barred due to it being an unintentional violation \_\_\_\_yes  
21 \_\_\_\_no

22 Is this claim barred due to it being an unintentional violation based upon  
23 the reliance placed upon the Drakefords \_\_\_\_yes \_\_\_\_no

24 If you answered any of the above questions yes, please go to the next claim  
25 for relief.

26 If you answered all of the above questions no, please answer the following  
27 question.

28 Was there a breach of a fiduciary duty which was owed to the Drakefords

1 \_\_\_\_yes \_\_\_\_no

2 If you answered the above question yes, please answer the following  
3 question:

4 If there was a breach of fiduciary duty, how was it breached:

5 \_\_\_\_\_.

6 If you could not answer the above question, please go to the next claim for  
7 relief.

8 If you did answer the above question, please answer the following  
9 question:

10 We award the Drakefords the following damages: \$\_\_\_\_\_.

11 **VI. FRAUD**

12 On Capital Benefit, Inc.'s, Marcel Bruetsch's, Robert V. Williams's,  
13 Waltraud M. Williams's and Richard Westin's claim for Fraud:

14 We find that Reginald Drakeford committed fraud \_\_\_\_yes \_\_\_\_no

15 We find that Rhonda Drakeford committed fraud \_\_\_\_yes \_\_\_\_no

16 If you answered any of the above questions no, please go to the next claim  
17 for relief.

18 If you answered any of the above questions yes, please answer the  
19 following question.

20 We award the following damages: \$\_\_\_\_\_.

21 **VII. NEGLIGENT MISREPRESENTATION**

22 On Capital Benefit, Inc.'s, Marcel Bruetsch's, Robert V. Williams's,  
23 Waltraud M. Williams's and Richard Westin's claim for Negligent  
24 Misrepresentation:

25 We find that Reginald Drakeford committed negligent misrepresentation

26 \_\_\_\_yes \_\_\_\_no

27  
28 We find that Rhonda Drakeford committed negligent misrepresentation

\_\_\_\_yes \_\_\_\_no

If you answered any of the above questions no, please go to the next claim for relief.

If you answered any of the above questions yes, please answer the following question.

We award the following damages: \$\_\_\_\_\_.

### VIII. PUNITIVE DAMAGES

Did any party to this case engage in conduct, for which you have awarded relief, with malice, oppression, or fraud?

\_\_\_\_ Yes \_\_\_\_ No

If you answered the above question yes, please go to the next question.

If you answered the question no, please sign and date at the bottom of this verdict.

Which of the following parties engaged in conduct with malice, oppression, or fraud?

Reginald Drakeford \_\_\_\_\_yes \_\_\_\_no

Rhonda Drakeford \_\_\_\_\_yes \_\_\_\_no

Capital Benefit, Inc. \_\_\_\_\_yes \_\_\_\_no

Marcel Bruetsch \_\_\_\_\_yes \_\_\_\_no

Robert V. Williams \_\_\_\_\_yes \_\_\_\_no

Waltraud V. Williams \_\_\_\_\_yes \_\_\_\_no

Richard Westin \_\_\_\_\_yes \_\_\_\_no

If you answered any of the above questions yes, please fill in the name of the party who engaged in conduct with malice, oppression or fraud and the amount of punitive damages you award, if any:

\_\_\_\_\_ \$ \_\_\_\_\_

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Signed:

\_\_\_\_\_  
Presiding Juror

Dated: